

APPENDIX G

NAVY POSITION LETTER



DEPARTMENT OF THE NAVY
COMMANDER NAVY REGION SOUTHWEST
937 NO. HARBOR DR.
SAN DIEGO, CA 92132-0058

IN REPLY REFER TO:

9510
Ser N00/015
4 May 99

Mr. Richard R. Rempel
State Water Resources Control Board
P.O. Box 944212
Sacramento, CA 94244-2120

Dear Mr. Rempel:

Thank you for your correspondence addressed to "Owners and Operators of Military Aboveground Petroleum Storage Tank Facilities," in which you request payment of statutory fees pursuant to California's Aboveground Petroleum Storage Act (Health and Safety Code §§ 25270 et seq (Act)). I am providing this response as the Department of Defense Regional Environmental Coordinator (DoD REC) on behalf all the military services in California.

Historically, the military services have voluntarily complied with certain sections of the Act in a spirit of comity. As a matter of statutory construction, the Act addresses the activities of "tank facilities," defined in the Act as above-ground storage tanks and associated piping used by a "...single business entity at a single location or site." Given that the military services of the United States are not business entities, the Act by definition does not apply. Consequently, federal fiscal restrictions prohibit paying the requested fees.

The Department of Defense is firmly committed to proactive environmental stewardship and recognizes that proper storage and containment of petroleum products in aboveground tanks are critical components of good stewardship. Toward this end, we recently developed a Department of Defense regional working group to jointly analyze and act upon issues presented by above-ground storage tanks. The working group has recommended that, subject to available funding, the military services continue with voluntary compliance to the extent that they have in the past and that they actively seek appropriations for technical upgrades of above-ground tanks as necessary to ensure enhanced protection of the environment. I anticipate that because of our mutual stewardship roles, you will conclude as we have that this is the correct course of action—to focus attention on the investment necessary to properly protect the environment.

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For further discussion on this issue, please do not hesitate to call my point-of-contact, Ms. Mary Kay Faryan, at 619-532-4301.

Sincerely,

W. Z. Froman
Veronica Z. Froman
Rear Admiral, U. S. Navy
Department of Defense
Regional Environmental
Coordinator

Copy to: Marine Corps WREC
Army REC
Air Force REC
Defense Fuels System
Defense Logistics Agency REC